UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,738	08/22/2001	Ingo Molnar	019322-000340	9016

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EXAMINER
CHOUDHURY, AZIZUL Q

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/934,738	MOLNAR, INGO
	Examiner	Art Unit	
	Azizul Choudhury	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _09 January 2006_.

2a)☐ This action is FINAL.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-14_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-14_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _22 August 2001_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Detailed Action

This office action is in response to the correspondence received on 1/9/06.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 5-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims describe a software product and software is not patentable.

- Claims 5-8 disclose a computer program product, which is a non-tangible product. The examiner recommends amending the claims to claim a tangible product such as a computer-readable medium, which stores a computer program product. However the examiner also reminds the applicant's representatives that the all claimed features must be supported by the design specifications.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2, 5-6, 9-11 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what an object is

since a plurality of objects exist within the art. The specifications fail to disclose an

appropriate definition defining an object.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by

Challenger et al (US Pat No: 6,256,712), hereafter referred to as Challenger.

1. With regards to claims 1, 5, 9 and 11, Challenger teaches in a communication

server, a method of responding to a client application, the method comprising the

steps of: a cache disposed in an operating system kernel; receiving from the

client application an application protocol request corresponding to a response

that can be displayed as a combination of a dynamic protocol object and a static

protocol object; creating at the server the dynamic protocol object; sending the

dynamic protocol object to the client application; retrieving the static protocol

object from a cache disposed in an operating system kernel; and sending the

static protocol object to the client application (Challenger discloses a design

enabling the updating content within a server so that updated content is

submitted to the client. The design allows for current copies of both dynamic and

static data (objects) to be cached within the server (column 2, lines 5-8,

Challenger). The cached data (objects) is consistently updated (column 2, lines

54-55, Challenger). When required, the data (objects) are dynamically rebuild

the objects and provide the client with updated content (column 2, line 53 –

column 3, line 34, Challenger). Finally, the use of a cache/buffer/registry within

an operating system of a computer is inherent).

2. With regards to claims 2, 6, 10, 13 and 14, Challenger teaches the method

wherein the cache disposed within the operating system kernel is a protocol

object cache (Challenger's design allows for caches (column 2, lines 5-8,

Challenger) (column 5, lines 51-52, Challenger)).

3. With regards to claims 3, 4, 7, 8 and 12, Challenger teaches the method wherein

the application protocol request and the reply are formatted according to a

hypertext transmission protocol (HTTP) (Challenger's design allows for HTTPD

(Figure 30A, Challenger). Hence, HTTP is supported).

Remarks

The amendment received on January 9, 2006 has been carefully examined but is

not deemed fully persuasive. In lieu of the claim amendments, the claim objections

have been withdrawn. With regards to the applicant's representative's remarks, two primary points of contention are addressed. As for the first point of contention, the applicant's representative remarks on how the term "object" is well known in the art. However, the examiner would like to point out how the term "object" lacks a clear definition within the specifications. "Object" is a broad and indefinite term and is open to a variety of interpretations. Hence, the 112-type rejection continues to stand. As for the second point of contention, the applicant's representative states that the claimed design features a response that can be displayed as a combination of a dynamic protocol object and a static protocol object and that the prior art teaches no such traits. First, the examiner has interpreted the claimed "objects" to be equivalent to data. Then, the examiner referred to the Challenger art and stated: "The design allows for current copies of both dynamic and static data (objects) to be cached within the server (column 2, lines 5-8, Challenger). The cached data (objects) is consistently updated (column 2, lines 54-55, Challenger). When required the data (objects) dynamically rebuilds the objects and provides the client with updated content (column 2, line 53 – column 3, line 34, Challenger)." In addition, the examiner states that the use of a cache/buffer/registry within an operating system of a computer is inherent.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azizul Choudhury whose telephone number is (571) 272-3909. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AC

JASON CARDONE
SUPERVISORY PATENT EXAMINER